Attorney Docket Number: FSP0291
Application Number: 09/759,935

-9-

REMARKS

In an office action mailed on 09/09/2008, claims 22-41 are rejected under 35 USC 103(a) as unpatentable over Son, US Pat. #6697376 in view of Ritchie, US Pat #5790523. The Examiner repeats the earlier rejection, finding the Applicant's argument unpersuasive. Claims 22-31, 34-41 are also rejected as unpatentable over Son in view of Dodson, US Pat # 6,873,622. After further consideration, the Applicant still believes his position to be sound, and thus traverses the rejection again, in more detail. In the interests of furthering prosecution, the Applicant has amended the independent claims in order to further clarify the distinguishing features.

The Applicant first wishes to thank the Examiner for his reasoned and professional examination of the present application. The Applicant will now traverse the rejection.

Son in View of Ritchie Does Not Teach The Headend of Claim 22

Claim 22 recites, inter alia, a headend that extracts a group identifier from a VOD request, and which enables one or more modulators associated with the group identifier to pass the video on demand data downstream. These features are entirely lacking from either reference.

The recent Supreme Court case of KSR 127 S. Ct 1742 has set forth some guidelines for when obviousness may be found from combined references. As a threshold matter, the references must teach all significant aspects of the claims. Regarding claim 22, they clearly do not. It is simply not possible to combine Son and Ritchie and obtain the claimed headend features. Son teaches that a group identifier (a Logical Node id) is transmitted downstream from the headend and later sent back from the terminal, not in a VOD request, but at some other, entirely unrelated time. The headend uses the Logical Node ID to build a configuration database; it doesn't extract the group identifier from a VOD request, and it doesn't enable modulators associated with the group identifier to pass the VOD data downstream.

Attorney Docket Number: FSP0291
Application Number: 09/759,935

-10-

The most recent Official Action acknowledges that Son does not explicitly teach that the Logical Node ID, i.e., group ID is transmitted upstream with each VOD request, but goes on to assert that Son does state that the group ID is transmitted upstream with messages from the terminal to the server. However, claim 22 is specific that the headend extracts the group identifier from a VOD request, not some other message. The headend of claim 22 enables modulators associated with a group identifier extracted from a VOD request to pass the VOD data downstream. Son not only obtains the group ID from the terminal in an entirely different way, it also uses it for an entirely different purpose. Son and claim 22 are simply describing entirely different applications of a terminal group ID in a streaming network. The applications are so different that the headend of Son is nothing like the headend recited in claim 22.

Ritchie does not cure the features lacking in Son. Ritchie teaches a customer interface unit (CIU) for each customer of the network. The CIU has a unique predetermined serial number that can be used to identify the customer. Ritchie teaches that the CIU serial number is sent upstream whenever the CIU requests service.

Claim 22 describes a headend adapted to receive a request for video on demand data including a group identifier <u>that is not specific to any one terminal of the group.</u> Claim 22 recites that <u>the headend extracts from the VOD request a group identifier that is not specific to any one terminal of the group</u>.

The CIU serial number of Ritchie is not a 'group identifier' as that term is used in the present claims and specification. It specifically identifies a specific terminal to the network. Richie col. 19, lines 35-63. There is no suggestion in Ritchie that a group id, provided from upstream, could be saved and later used in a VOD request.

Therefore, claim 22 describes features that are simply not described or suggested in either of Son or Ritchie. As a threshold matter, the two references do not combine to teach the features of claim 22. Combining Son with Ritchie cannot, prima facia, yield a headend adapted to receive a request for video on demand data including a group identifier that is not specific to any one terminal of the group, nor a headend adapted to extract from the VOD request a group identifier that is not specific to any one terminal of the group.

Attorney Docket Number: FSP0291
Application Number: 09/759,935

-11-

Applying the teachings of <u>KSR</u>, the combination of Son and Ritchie would not lead one of ordinary skill in the art to the invention recited in claim 22. Claim 22 does not simply arrange old elements with each performing the same function it has been known to perform. The combination of Son and Ritchie may yield a system where the CIU would use the logical node id for network configuration verification, and would use the CIU serial number for service requests. Clearly then Ritchie teaches away from the present claims, by teaching use of a terminal-specific ID (the CIU serial number) instead of a non-terminal specific group id in upstream service requests. The Examiner's arguments for the combination to yield the headend of claim 22 require the function of the pieces of Son and Ritchie to change when placed in combination.

Further applying <u>KSR</u>, one skilled in the art would not be led to create the invention of claim 22 by combining the teachings of Son and Ritchie, at least because 1) the logical node id of Son is not suitable for uniquely identifying subscribers in service requests as taught by Ritchie, and 2) the combination of Son and Ritchie does not anywhere suggest or imply that a non-terminal-specific group id sent downstream would later be used in upstream VOD requests.

Please note that independent claims 26, 30, 32, 34, and 38 recite limitations similar to at least some of those argued for claim 22, above, and thus are distinguished for similar reasons. Claims dependent on the independent claims are likewise distinguished. The Applicant will respectfully not repeat the arguments above for the other independent claims, in the interests of efficiency.

Son in View of Dodson Does Not Teach The Headend of Claim 22

Respectfully, the headend of Dodson is clearly distinguished from the headend of claim 22 because Dodson doesn't teach the headed specifically enabling one or more modulators associated with a terminal group identifier to pass the video on demand data downstream. Dodson teaches an entirely different application, in which a port and node id are inserted into a service request by equipment upstream of the terminal, and this information is used to verify access rights to the requested content. The information

Attorney Docket Number: FSP0291
Application Number: 09/759,935

-12-

added to the streams by upstream equipment is not used by the headend to specifically enable downstream modulators associated with a terminal group, and not others. This feature is lacking from both Son and Dodson.

Furthermore, KSR teaches that one skilled in the art must be motivated to combine the references, and in the case of Son and Dodson, there simply is no such motivation. Son teaches that the terminal group id is already stored by the terminal and later incorporated in upstream messages. Dodson teaches that equipment ids are inserted into service requests by upstream equipment, not the terminals. These are two primarily exclusive approaches. There would be little if any benefit to combining these two approaches into a single system, and especially the benefits achieved by the headend of claim 22 would not be achieved or apparent from such a combination. If the network equipment were to insert group ids into upstream service requests, there would be no motivation to incur the complexity and overhead of broadcasting node ids downstream and store them in the terminals, and vice versa. In fact, such a combination may lead to inconsistencies and inefficiencies between what is provided downstream and what is provided upstream, as the sources of the information would be entirely different.

Please note that, again, independent claims 26, 30, 32, 34, and 38 recite limitations similar to at least some of those argued for claim 22, above, and thus are distinguished for similar reasons. Claims dependent on the independent claims are likewise distinguished. The Applicant will respectfully not repeat the arguments above for the other independent claims, in the interests of efficiency.

Conclusion

For at least the reasons provided, all of the claims should be allowed. If an interview would help further the prosecution, the Examiner is urged to contact the Applicant at the numbers provided below.

Respectfully Submitted by:
Signature   /Charles A. Mirho/   Date: 12/29/2008
              Charles A. Mirho
              Reg. 41,199

Attorney Docket Number: FSP0291
Application Number: 09/759,935

-13-

Attorney for Applicant

Address all correspondence to:
FSP LLC
Attn: Charles A Mirho
P.O. Box 890
Vancouver, WA   98666-0890
USA
Phone: 360-737-1748
Fax: 360-294-6426